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*****I** **REPORT**

on the proposal for a directive of the European Parliament and the Council concerning measures to safeguard security of natural gas supply (COM (2002) 488 – C5-0449/2002 – 2002/0220(COD))

Committee on Industry, External Trade, Research and Energy

Rapporteur: Peter Michael Mombaur

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

By letter of 13 September 2002 the Commission submitted to Parliament, pursuant to Article 251(2) and Article 95 of the EC Treaty, the proposal for a directive of the European Parliament and the Council concerning measures to safeguard security of natural gas supply (COM (2002) 488 – 2002/0220 (COD)).

At the sitting of 9 October 2002 the President of Parliament announced that he had referred this proposal to the Committee on Industry, External Trade, Research and Energy as the committee responsible and the Committee on Economic and Monetary Affairs, the Committee on Legal Affairs and the Internal Market and the Committee on the Environment, Public Health and Consumer Policy for their opinions (C5-0449/2002).

The Committee on Industry, External Trade, Research and Energy appointed Peter Michael Mombaur rapporteur at its meeting of 12 November 2002.

The committee considered the Commission proposal and draft report at its meetings of 19 March 2003, 29 April 2003, 19 June 2003 and 9 September 2003.

At the last meeting it adopted the draft legislative resolution by 29 votes to 4, with 2 abstentions.

The following were present for the vote: Yves Piétrasanta, acting chairman; Gordon J. Adam (for Gary Titley), Sir Robert Atkins, Ward Beysen (for Marco Cappato), Guido Bodrato, Gérard Caudron, Giles Bryan Chichester, Colette Flesch, Christos Folias (for Michel Hansenne), Neena Gill (for Eryl Margaret McNally), Norbert Glante, Alfred Gomolka (for Peter Michael Mombaur), Malcolm Harbour (for Bashir Khanbhai), Hans Karlsson, Efstratios Korakas (for Konstantinos Alyssandrakis, pursuant to Rule 153(2)), Hans Kronberger (for Daniela Raschhofer, pursuant to Rule 153(2)), Werner Langen, Rolf Linkohr, Marjo Matikainen-Kallström, Ana Clara Maria Miranda de Lage, Elizabeth Montfort, Giuseppe Nisticò (for Umberto Scapagnini), Reino Paasilinna, Paolo Pastorelli, Manuel Pérez Álvarez (for Concepció Ferrer), Samuli Pohjamo (for Nicholas Clegg), John Purvis, Alexander Radwan (for Godelieve Quisthoudt-Rowohl), Imelda Mary Read, Jacques Santer (for Paul Rübig), Konrad K. Schwaiger, Esko Olavi Seppänen, Jaime Valdivielso de Cué, Alejo Vidal-Quadras Roca and Olga Zrihen Zaari.

The opinions of the Committee on Economic and Monetary Affairs and the Committee on the Environment, Public Health and Consumer Policy are attached; the Committee on Legal Affairs and the Internal Market decided on 3 December 2002 not to deliver an opinion.

The report was tabled on 10 September 2003.

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

On the proposal for a directive of the European Parliament and the Council concerning measures to safeguard security of natural gas supply (COM (2002) 488 – C5-0449/2002 – 2002/0220(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM (2002) 488¹),
 - having regard to Article 251(2) Article 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C5-0449/2002),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, External Trade, Research and Energy (and the opinions of the Committee on Economic and Monetary Affairs Committee on the Environment, Public Health and Consumer Policy) (A5-0295/2003),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer to Parliament again, if it intends to amend its proposal substantially or replace it with another text;
 - 2a. Insists on the appropriateness of the legal base proposed by the Commission and asks for the matter to be referred to it again, should the Council intend to amend the legal base;
 3. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1

Recital 6

(6) As indicated by the Green Paper "Towards a European strategy for the security of energy supply", the European Union ***is expected*** in the longer term ***to*** become increasingly dependent on gas imported from non-EU sources of supply;

(6) As indicated by the Green Paper "Towards a European strategy for the security of energy supply", the European Union ***will*** in the longer term become increasingly dependent on gas imported from non-EU sources of supply. ***The European Union's dependence on natural***

¹ OJ C 331, 31,12,2002, p. 262.

gas imports could, according to the Commission, reach a level of 75% by 2020. With a further rise in dependency on natural gas imports, the risk of an insecure natural gas supply also rises.

Justification

High dependency on natural gas imports represents a high factor of uncertainty as regards a secure natural gas supply.

Amendment 2
Recital 6 a (new)

(6a) As is indicated in the Commission communication on alternative fuels for road transportation, natural gas is one of the three medium-term options for the replacement of petroleum-based automotive fuels;

Justification

The above communication (COM(2001) 547) makes provision for 10% of all petroleum-based fuels being replaced by natural gas by 2020. Natural gas can also be used for the production of hydrogen. As the Commission states in the communication, 'natural gas has great potential (...) as a motor fuel. It is a cheap alternative fuel, has a high octane number, is clean and has no problem in meeting existing and future emission standards'.

Amendment 3
Recital 8

(8) The European Union has a strong common interest with gas supplying and transit countries in ensuring continued investments in gas supply infrastructure;

(8) The European Union has a strong common interest with gas supplying and transit countries in ensuring continued investments in gas supply infrastructure. ***At the same time, the problem of dependence on natural gas imports must not be neglected. Dependency carries risks arising from political instability in the producer countries, endangering the***

security of the gas supply.

Justification

The fact that natural gas is mainly transported via fixed pipeline systems, which are hard to protect, increases the risk in that not only the stability of the producer countries but also that of the countries of transit must be guaranteed.

Amendment 4
Recital 12

(12) Domestic gas resources and measures designed to extend their availability, in a non-discriminatory manner that is compatible with the requirements of a competitive single market for natural gas and competition rules, contribute to enhancing the level of security of supply in the internal gas market.

(12) Domestic gas resources and measures, ***such as feed-in of biogas***, designed to extend their availability, in a non-discriminatory manner that is compatible with the requirements of a competitive single market for natural gas and competition rules, contribute to enhancing the level of security of supply in the internal gas market.

Justification

Biogas is a decentralised renewable energy source, which is available in sufficient quantities, protects the environment and reduces dependence on natural gas imports.

Amendment 5
Article 1

This Directive establishes measures aimed at ***ensuring the proper functioning of the EU internal market for gas*** by safeguarding security of gas supply. It establishes a common framework within which Member States shall define general, transparent and non-discriminatory security of supply policies ***compatible with the requirements of a competitive single EU market for gas; clarify the general roles and responsibilities***

This Directive establishes measures aimed at safeguarding security of gas supply. It establishes a common framework within which Member States shall define general, transparent and non-discriminatory security of supply policies, ***where security of gas supply cannot be guaranteed (or cannot be guaranteed in good time or adequately) by market economy means.***

of the different market actors and implement specific non-discriminatory procedures to safeguard security of gas supply.

Justification

There is a confusion here between different subjects for regulation. Internal market rules are laid down in the Gas Directive.

The underlying idea is that of subsidiarity. Owing to the differing basic situations, there are differing demands for security of supply in the Member States. There can therefore be no hard and fast EU catalogue of objectives for standards for security of supply.

Amendment 6 Article 2

For the purpose of this Directive:

1. 'source of gas supply' shall mean gas supply originating from one single gas supply country;
2. 'long-term gas supply contract' shall mean a gas supply contract with a duration of ***more than one year***;

3. ***'new market entrants' shall mean undertakings that are not yet active in the Member State in gas supply, or have only entered the market within 5 years following the entry into force of this Directive and which have a small market share;***
4. ***'small market share' shall mean a market share of less than 10 % of the national gas market.***

For the purpose of this Directive:

1. 'source of gas supply' shall mean gas supply originating from one single gas supply country;
2. 'long-term gas supply contract' shall ***generally*** mean a gas supply contract with a duration of ***15 or more years***;
- 2 a. 'vulnerable customers' shall mean private households and other end users who are not able to switch to other fuels at short notice.***

Justification

Para. 2: Long-term supply contracts, on a take-or-pay basis, with producers both within and

outside Europe make an essential contribution to security of supply. In contrast to long-term supply contracts in the retail sector, those relating to purchase from the country of origin generally have a much longer duration than one year. Only the latter, however, are crucial to security of supply. The Commission's definition is therefore inappropriate.

Paras. 3 and 4: This deletion follows on from the deletion of Article 3(6).

Para. 2 a: The definition of 'vulnerable customers' is not so far present in the proposal for a directive, but is necessary in order to clarify the scope of the rules in Article 3(3 a) and Article 4.

Amendment 7 Article 3, paragraph 1

1. Member States shall take ***the necessary*** measures to define the general policies for security of supply ***which are necessary and integral part of competitive internal natural gas market. This may include clarifying the general roles and responsibilities of the different market actors in fulfilling the security of supply standards.***

1. Member States shall take measures to define the general policies for security of supply, ***in the light of their particular national circumstances. These should as far as possible be compatible with a functional internal market in natural gas. Provided the requirements of this directive are met, the exact content of supply security policy and the way in which this policy is determined shall be treated in accordance with the subsidiarity principle.***

Justification

Paragraph 1, first sentence: makes clear that the Member States have to shoulder their responsibilities.

In determining individual security of supply policies, account must be taken of the subsidiarity principle. The underlying situations in the individual Member States differ radically in terms of structures, size of market, and storage possibilities.

On the deletion in the second sentence, see justification to Article 1.

Security of the gas supply must be the main consideration. The possibility for individual Member States to develop supply strategies over and above the requirements of the directive could have the effect of acting as an example to other Member States, who could use the experience gained in the process.

Amendment 8
Article 3, paragraph 2

2. The measures *and standards* to ensure security of supply *in the context of the internal gas market shall* be *developed* in accordance with paragraph 3 of this article and with article 4. The implementation of these measures and standards *shall complement the completion of the internal gas market*, shall be implemented in a non-discriminatory and transparent way and shall be published.

2. The measures to ensure security of supply *should* be in accordance with paragraph 3 of this article and with article 4. The implementation of these measures and standards shall be implemented in a non-discriminatory and transparent way and shall be published.

Justification

No EU-wide standards should be set, since there are major structural differences between the gas industries in the EU.

Amendment 9
Article 3, paragraph 3

3. In *developing the* measures and standards referred to in paragraph 1, Member States shall take the utmost account of:

a) the importance of ensuring continuity of gas supplies under severe conditions notably to *household* customers without alternative fuel options;

b) the need to ensure adequate levels of gas storage or alternative back-up fuels;

c) the need *to diversify supplies and ensure a reasonable balance between different gas supply sources;*

d) the need to create incentives for new gas

3. In *determining their* measures and standards referred to in paragraph 1, Member States shall take the utmost account of:

a) the importance of ensuring continuity of gas supplies under *objectively* severe conditions *for household customers as defined in the directive completing the opening of the electricity and gas markets to competition (Art. 2(25));*

c) the need to *create incentives for new gas supplies from internal and external sources to the single European gas market or, where appropriate, to ensure adequate levels of gas storage or alternative back-up fuels;*

supplies from internal and external sources to the single European gas market;

e) the risk of the most serious system failure or of disruption of the largest ***single*** supply source and the cost related to mitigate such supply disruption;

f) the internal market and the possibilities for cross-border cooperation in relation to security of gas supply.

e) the risk of the most serious system failure or of disruption of the largest ***natural gas*** supply source and the cost related to mitigate such supply disruption;

f) the internal market and the possibilities for cross-border cooperation in relation to security of gas supply.

f a) the importance of long-term contracts and their flexibility.

(Text of letter d taken over into letter c)Justification

Existing rules on security of supply in the Member States may not require any further action.

Deletion of old point (b) (storage): diversification of supply sources is preferred to guaranteeing gas storage levels or the availability of alternative fuels. This wording makes it possible to ensure that diversification of supply sources contributes to security of supply.

For states which do not have the opportunity of diversifying, or for which diversity has become unavailable, other measures should guarantee the supply requirement.

Letter f a): Long-term contracts and their flexibility are essential instruments for the security of supply, of which insufficient account has so far been taken in the proposal for a directive.

Amendment 10
Article 3, paragraph 4

4. In developing the measures and standards referred to in paragraph 1, Member States shall also take account of the need for setting high security of supply standards for gas supplies for power generation in particular with regard to the level of interruptible demand and alternative fuel back-up capacities in this sector.

deleted

Justification

It is the responsibility of the electricity industry to regulate reserve capacities of alternative back-up fuels by contract. Having the state set standards for the supply of power stations with natural gas would constitute clear discrimination against gas in comparison to other competing energy sources.

Amendment 11 Article 3, paragraphs 5 and 6

5. The security of supply policies shall be compatible with and contribute to the completion of a fully operational internal market for gas. The security of supply policies shall be implemented in a non-discriminatory manner and shall in no way hamper the entrance of new market participants.

6. In order to ensure that security of supply criteria established by Member States would not lead to a significant restriction of competition or barriers to market entry, Member States shall exempt companies with small market shares and new entrants from obligations imposed pursuant to articles 3 and 4 of this Directive.

Where Member States consider that the imposition of obligations adopted pursuant to articles 3 and 4 of this Directive would not result in a significant restriction of competition or barriers to market entry, they may apply to the Commission for authorisation to lift this exemption. The Commission shall decide on the request in conformity with article 9, paragraph 2 of this Directive.

5. Each Member State shall implement its security of supply policy in a non-discriminatory manner which must not hamper the entrance of new market participants.

Justification

First sentence: Deleted, as it creates confusion between the gas directive and the security of supply directive. Second sentence: The Commission's wording could be taken as implying preferential treatment for new entrants to the market. This would be discriminatory.

Deleted, since the Commission's wording could be interpreted as intending preferential

treatment for small businesses and new entrants to the market. Any obstacle to access to the market, or significant restrictions on competition, are already ruled out by the ban on discrimination set out in para. 5.

Any limiting of the security of supply obligation would result in a double burden on other undertakings with such an obligation, since they would have to guarantee security of supply for undertakings with small market shares, or new market entrants, over and above their normal supplies. It would also be possible to dispense with security of supply obligations by hiving off parts of the undertaking.

Amendment 12
Article 4

1. In order to fulfil the security of supply policies and achieve the standards referred to in article 3, Member States shall take the necessary measures to ensure that security of supply can be maintained to ***non-interruptible customers without fuel switching capabilities in case of disruption of the single largest source of gas supply during sixty days given average weather conditions.***

2. ***Member States shall take the necessary measures to ensure that security of supply can be maintained to non-interruptible customers without fuel switching capabilities in case of extremely cold temperatures during a period of three days statistically occurring every twenty years.***

3. ***Member States shall take the necessary measures to ensure that security of supply can be maintained to non-interruptible customers without fuel switching capabilities in case of a cold winter statistically occurring every fifty years.***

4. ***In order to achieve these security of supply standards,*** Member States may use a combination of at least the following instruments:

- a) interruptible customers
- b) gas storage
- c) supply flexibility
- d) spot markets

1. In order to fulfil the security of supply policies and achieve the standards referred to in article 3, Member States shall take the necessary measures to ensure that security of supply can be maintained to ***vulnerable customers in the light of their national circumstances. The Member States shall notify the Commission of the measures taken.***

4. ***To that end,*** Member States may use a combination of at least the following instruments:

- a) interruptible customers
- b) gas storage
- c) supply flexibility
- d) spot markets

da) diversification of gas supply sources, including the use of biogas,

5. Member States shall take the necessary measures to ensure that gas storage, either located within or outside the territory of the Member State, contributes to a necessary minimum degree to achieving the security of supply standards referred to in this article in function of the geological and economical feasibility of storage within each Member State.

In this respect, Member States shall, initially not later than one year after the entry into force of this Directive and every two years thereafter, adopt and publish a report setting national indicative targets for future contribution of storage, either located within or outside the territory of the Member State,

to security of supply in terms of gas storage working volume and withdrawal capacities and the percentage of gas storage capacity of gas consumption for the next ten years. The targets for future contribution of storage shall be established in accordance with the form set out in the annex to this Directive.

6. The security of supply criteria set out in this article shall be established by Member States in a manner compatible with the objectives of the internal gas market including the harmonisation of the measures implementing these criteria where economically and technically possible and appropriate. In particular, minimum storage objectives imposed on undertakings shall take account of the availability of non-discriminatory access to storage and the terms and conditions on which such access is granted by those companies that operate storage facilities.

7. When implementing security of supply standards and imposing obligations on a market participant established and registered in another Member State, Member States shall take proper account

of measures already taken by the market participant in fulfilling security of supply criteria in that Member State.

Justification

Deletion in paragraphs 1 to 3 on the grounds of the differing framework conditions in individual Member States. Stress on the subsidiarity principle.

Para 4 d) a: Biogas is a decentralised renewable energy source, which is locally available on a stable basis and makes a contribution to sustainable security of energy supply.

Para 5: Storage is one instrument among many to guarantee security of supply and has as such already been dealt with adequately in para. 4 and Article 7. Listing it separately would conflict with the structure of the proposed directive, since the whole point is that the concrete form given to the security of supply measures should be the responsibility of the Member States.

Para 6: First sentence: reference to the internal market is not necessary.

Second sentence: rejection of minimum reserve requirements, since these would represent a disproportionate interference in the undertakings' economic freedom (compulsory investment).

Para 7: This rule leads to distortions of competition and discrimination and thus to legal disputes.

Amendment 13 Article 5

1. ***In the Report published by*** Member States pursuant to article ***[4a]*** of Directive .../.../EC ***[proposed new Directive amending Directives 96/92/EC and 98/30/EC concerning rules for the internal markets in electricity and natural gas]***, Member States shall, in particular, cover the following:

1. Member States ***shall draw up and publish annually a report*** pursuant to article 5 of Directive .../.../EC (proposed new Directive amending Directives 96/92/EC and 98/30/EC concerning rules for the internal markets in electricity and natural gas), ***which they shall forward to the Commission:***

a) the competitive impact of the measures taken pursuant to articles 3 and 4 of this Directive on companies with small market shares or new market entrants and in particular the effectiveness of measures taken by Member States pursuant to article 3 paragraph 6 to redress any restriction of competition or barrier to entry to such companies resulting from these measures;

b) the supply/demand balance on their territory;

c) the level of expected future demand and available supplies;

d) envisaged additional capacity under planning or construction;

e) the emergency and contingency instruments in place to cater for a sudden crisis in the market;

f) the levels of stocks and the measures taken and to be taken in order to achieve the indicative storage targets and

g) the extent of long-term contracts concluded by companies established and registered on their territory.

In addition, Member States shall monitor that appropriate measures are taken to ensure regulatory and fiscal frameworks for exploration and production, storage, LNG and transport of natural gas which provide appropriate incentives for new investment.

2. In the Report issued by the Commission pursuant to article [28] of Directive .../.../EC [proposed new Directive amending Directives 96/92/EC and 98/30/EC concerning rules for the internal markets in electricity and natural gas], the Commission shall examine

a) issues relating to security of supply in the Community, and in particular the existing and projected balance between demand and supply including the appropriateness of incentives given to investment in new gas supply infrastructure;

2. Partly on the basis of the reports of the Member States, the Commission shall submit a report pursuant to Article 30 of the Directive concerning the internal market in gas.

b) the scope for harmonisation of security of supply measures aiming at better functioning of the single European gas market;

c) the situation with regard to stock levels in relation to the indicative storage targets;

d) the level of long-term contracts for gas, and the consequences in practice of this level for ensuring adequate levels of new gas supplies for the European Union in the future.

Where appropriate, this report shall include recommendations.

Justification

Para 1: The reporting requirements of the Member States in relation to security of supply are already adequately dealt with in the EU's Gas Directive. An extension of these requirements is therefore neither necessary nor appropriate.

Para 2: The Commission's reporting requirements are also adequately and definitively dealt with in the EU's Gas Directive (Article 30).

1. With a view to ensure continued long-term security of gas supply for the Community and the gradual development of a more liquid internal market for gas, the Commission shall closely monitor the degree of new gas supply import contracts from non-EU countries concluded on a long-term basis as well as the existence of adequate liquid gas supplies and transparent gas price references within the Community to underpin stable long-term gas supplies. The Commission may issue Recommendations on appropriate measures to be taken by Member States in this respect. The Recommendations may only address an insufficient degree of such contracts on a Community level. Member States shall inform the Commission of the manner in which the Recommendations are implemented. In making such Recommendations, the Commission shall pay particular attention to the possible effect such measures may have on companies with small market shares and new entrants.

2. Where the measures taken by Member States in relation to the Recommendations referred to in paragraph 1 are inadequate with regard to the long-term security of gas supply, the Commission may, by Decision, in conformity with the procedure laid down in article 9 ,paragraph 3 require the Member States concerned to take specified measures to ensure that an appropriate minimum share of new gas supply from non-EU countries over the five years following the entry into force of this Directive is based on long-term contracts and that adequate liquid gas supplies are developing and transparent gas price references are available within the Community to underpin stable long-term gas supplies. When taking such Decisions,

the Commission shall pay particular attention to the possible effect such measures may have on companies with small market shares and new entrants.

3. The Commission shall, within five years of the entry into force of this Directive, submit a review report to the European Parliament and the Council on the experience gained from the application of ***this Article***, so as to allow the European Parliament and the Council to consider, in due course, the need to adjust it.

The Commission shall, within five years of the entry into force of this Directive, submit a review report to the European Parliament and the Council on the experience gained from the application of ***the Directive***, so as to allow the European Parliament and the Council to consider, in due course, the need to adjust it.

Justification

Para 1: The determination of the energy policy framework for security of supply is a matter for the Member States.

Amendment 15 Article 7

With a view to ***enhancing liquidity of natural gas***, Member States shall take appropriate measures to ensure non-discriminatory authorisation procedures for building storage and LNG facilities and remove any obstacles for building such facilities. These procedures shall apply equally to EU natural gas undertakings as to non-EU gas suppliers.

With a view to ***increasing the security of supply of natural gas***, Member States shall take appropriate measures to ensure non-discriminatory authorisation procedures for building ***natural gas pipelines***, storage and LNG facilities and remove any obstacles for building such facilities. These procedures shall apply equally to EU natural gas undertakings as to non-EU gas suppliers.

Justification

Seeks to clarify what is desired. Free, competitive pipeline construction makes a crucial contribution to security of supply. Accordingly the building of gas pipelines must be permitted under as simple and as non-discriminatory conditions as possible.

Amendment 16 Article 8

1. The Commission may, in conformity with the procedure laid down in article 9, paragraph 2, in the event of extraordinary gas supply situations including a major interruption of gas supplies from one of the European Union's principal gas suppliers, issue Recommendations to Member States to take the necessary measures to provide specific assistance to those Member States particularly effected by the gas supply disruption. Such measures may include, but are not limited to, the following:

- a) release of gas stocks;***
- b) provision of pipeline capacity enabling diversion of gas supplies to affected areas;***
- c) interruption of interruptible demand to allow reallocation of gas and system flexibility.***

2. Member States shall inform the Commission of their implementation of the Recommendations.

3. Where the measures taken by Member States are inadequate in the light of market developments, and/or where the economic consequences of the extraordinary gas supply situation become extremely severe, the Commission may, by Decision, in conformity with the procedure laid down in

Where, as a result of

- interruptions of supplies along individual transport routes, or

- a halt to supplies from an entire natural gas-producing country or countries,

an extraordinary situation arises which cannot be handled by the market participants and the Member States, even in cooperation with other market participants or Member States, the Member States affected may notify this to the Commission. In such cases, the Commission may hold consultations with the Member States and undertakings, take other appropriate measures and, where necessary, by a decision pursuant to Article 9(3), require the Member States to take special measures in order to support those Member States which are affected by the interruption of gas supply.

This decision must guarantee the payment of reimbursement or compensation geared to current market rates.

article 9, paragraph 3, require Member States to take specified measures to provide necessary assistance to those Member States particularly affected by the gas supply disruption. Such measures may include, but are not limited to, those mentioned in paragraph 1 points a), b) and c).

4. The recommendations and decisions to be taken in accordance with this article shall restrict competition as little as possible. The Commission shall ensure that this principle is complied with throughout the entire period of application of the measures.

Justification

The subsidiarity principle requires that a crisis reaction mechanism at European level must only come into operation in restricted, clearly defined cases, and then only when the Member States affected call for this themselves. Since the proposed mechanism might be tantamount to an interference in property rights, a compensation scheme must be provided for.

1. Not later than 1 January 2004, the Commission shall make the necessary arrangements to set up a European Observation System for supply of hydrocarbons to assist in preparing and implement Community legislation in the field of gas supply, to monitor its application and assist in evaluating the effectiveness of the measures in force and their effects on the functioning of the internal natural gas market. The Commission shall ensure that adequate resources are made available to enable the effective monitoring of measures provided for in the present Directive. *deleted*

2. The European Observation System for supply of hydrocarbons shall be run by the Commission, which should invite to meetings representatives of Member States as well as representatives of sectors concerned. It shall provide the Commission with the technical assistance necessary for the formulation and evaluation of measures taken in relation to the application of the present Directive and shall contribute to a better understanding of the evolution of the internal market and the international gas market and the factors driving these markets.

3. The European Observation System for supply of hydrocarbons shall carry out, in the field of natural gas, following technical tasks:

a) Monitor the functioning of the internal market and the international market for gas;

b) Contribute to the implementation of a physical monitoring system of the internal EU and external gas infrastructures to the European Union which contribute to the security of gas supply;

c) Monitor gas supply and the procedures aimed at guaranteeing security of gas supply in cases of emergency;

d) Monitor the level of strategic gas stocks and the procedures for their use as well as the procedures applied with regard to access to storage including aspects of market dominance in relation to access to storage;

e) Create a basis of objective, reliable and comparable data as a basis for fulfilling its tasks.

Justification

A 'System' is not an organisational structure under European law. To establish an 'Observation System' the Commission does not require any legislative authorisation: it may decide to do so under its own authority. Neither can a 'System' of this kind be administered by the Commission, and it certainly cannot operate under the Commission's 'aegis', as set out in the explanatory memorandum.

Amendment 18
Article 11

The Commission shall *closely* monitor the manner in which Member States implement this Directive, and in particular the compatibility of the measures taken with regard to article 4 *and their effect on the internal gas market and the development of competition within the European Union. The Commission shall closely monitor the availability of third party access to storage on non-discriminatory terms and conditions.* In the light of the results of this monitoring, the Commission shall, if necessary, no later than *1 January 2004* present proposals regarding further measures *to ensure effective access to storage.*

Where appropriate, the Commission shall issue recommendations or make appropriate proposals.

The Commission shall monitor the manner in which Member States implement this Directive, and in particular the compatibility of the measures taken with regard to article 4. In the light of the results of this monitoring, the Commission shall, if necessary, no later than *five years after the entry into force of this directive* present proposals regarding further measures *to enhance security of supply.*

Justification

Confusion of the proposal for a directive on the internal market in gas with that for a security of supply directive.

Access to storage is already dealt with in the gas directive.

First of all sufficient experience needs to be gathered with this proposed directive before new proposals for improvements are made.

Amendment 19
Article 12

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive *by 1 January 2004.* They shall forthwith inform the Commission thereof.

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive *no later than two years after its entry into force.* They shall forthwith inform the Commission thereof.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Justification

Deadline for implementation should be set in line with the procedure in Brussels and with what is customary in other proposals for directives.

EXPLANATORY STATEMENT

1. Commission proposal

This proposal for a directive assumes that the creation of an EU internal market in natural gas necessarily includes the establishment of common precautionary standards and crisis measures in the field of security of supply.

As regards precautionary measures, general responsibility for security of supply policies should remain with the Member States, which should be guided by a number of common principles. In addition, Article 4 introduces compulsory security of supply standards which are aimed at ensuring the continued supply of 'non-interruptible' demand (with no contractual provision for interruption of supply in cases of shortage) for specific periods under particular meteorological conditions.

As regards instruments, the Member States are free to select a suitable combination of any of the following: interruptible contracts, storage, flexibility of supply, spot markets or other instruments; storage should be considered at all events.

The Commission stresses as particularly important for security of supply long-term supply contracts (with a duration of more than one year). Accordingly the Commission is to have the task of monitoring the share of such long-term contracts as a proportion of total EU-wide gas imports. It is furthermore to recommend to the Member States an extension of the scope of long-term contracts and, as a second step, to have the right to impose such an extension on them in the committee procedure.

Provision is also made for a crisis mechanism. In the event of 'extraordinary gas supply situations', the Commission is to be given the power to take measures, aimed at other Member States, to support Member States suffering gas supply shortages (release of gas reserves, provision of transport capacity, redistribution of gas from interruptible contracts, etc.) These measures will be enacted under the committee procedure, initially in the form of recommendations (consultative committee), and thereafter as mandatory instructions (regulatory committee).

Finally, from 1 January 2004, a European Observation System for supply of hydrocarbons, managed by the Commission, is to be set up.

II. Rapporteur's assessment

Your rapporteur has considerable problems with the Commission proposal, both as regards its analysis of the situation and on the measures taken in consequence. The Commission assumes that neither the participants in the market (i.e. the gas undertakings themselves) nor the governments of the Member States are able to guarantee an adequate level of security of gas supply. Your rapporteur disagrees with both of these assumptions in the form in which they are stated here.

1. Questionable legal basis: Completion of the Single Market?

The Commission justifies its proposed measures on the grounds that they are necessary for the completion of the single market. Accordingly it takes as its legal basis Article 95 of the EC Treaty, under which obstacles to the internal market can be eliminated by means of the codecision procedure. It is, however, questionable to what extent this has not already been done by the Gas Directive of 1998, 98/30/EC (Article 24). That directive lays down that safeguard measures of the Member States should in the event of crisis be assessed by the Commission as to their compatibility with competition and trade and where necessary abolished. This proposal for a directive goes far beyond that. It contains the possibility of reacting to supply restrictions by third countries (lack of competence), regulates more than is necessary (proportionality principle) and fails to take account of the existence of adequate Member State measures (subsidiarity principle). Accordingly we may state that the rules proposed here are by no means 'an integral part of the internal market' (Commission's explanatory memorandum) but create entirely new competences at Community level. This is questionable in legal terms, and one may wonder whether it makes any sense in terms of economic policy.

2. Necessity for action: Is there any need for new competences at Community level?

2.1. Security of supply in the gas sector is currently guaranteed

There are considerable doubts as to whether there is any need for action at EU level. The Commission has proposed a common legislative project for security of oil and gas supply, thereby disregarding the **fundamentally different nature of the two sectors**. No difficulties in the field of gas supply have ever arisen which would be comparable to the oil crises, and there are structural reasons why such difficulties are less likely to occur. There is no suppliers' cartel for gas comparable to OPEC for oil, on the contrary there is in principle competition between suppliers; the mutual dependency of exporting and importing countries is greater; long-term contracts safeguard a part of supplies; gas is often replaceable on the consumer side, while oil – particularly for transport – is not. Supply crises ought therefore in principle to be considerably less likely for gas than for oil.

Furthermore the individual Member States' situations vary much more in respect of gas than of oil. For example the various EU Member States differ widely in the extent to which gas forms part of the energy mix (ranging from less than 1% of power production in Sweden to some 57% in the Netherlands). The sources of gas also differ widely, its transport structures are expensive and – unlike those for oil – inflexible. All these factors make it questionable whether it is right to treat these two energy sources in parallel.

Two components in security of supply are generally distinguished with regard to gas:

- In the long term it is important that sufficient quantities of gas should be extracted to cover demand and transported to the consumer countries;
- In the short term, interruptions of supply may occur for technical or political reasons which then need to be covered for.

The measures proposed here relate chiefly to the second point. The risk of this kind of interruption of supply is generally regarded as low, and its likely consequences have hitherto been held to be manageable ('The IEA natural gas security study', IEA/OECD 1995).

Nevertheless, precautions are taken in all Member States for the eventuality of interruptions of supply, and there are several instruments available for this purpose, which are implemented by the gas supply undertakings themselves: diversification of sources, international pipeline and storage infrastructure, gas storage situated near to the consumer, cooperation among firms at national and supra-national level, long-term contracts with producers, interruptible gas supply contracts tailored to suit individual firms, in some cases clearing systems for the whole national gas industry to ensure gas supply measures in accordance with the market before the state steps in to reallocate burdens, and national and multi-national agreements between gas supply undertakings.

Finally it should be noted that the risks to security of supply will not necessarily rise in line with a rise in natural gas consumption in Europe. On the contrary, with the expansion of the gas sector, provided there is consistent liberalisation at the same time, the number of producers, suppliers, dealers etc. will increase. It is under-developed markets which are most sensitive to interruptions of supply.

2.2. To what extent are the undertakings' own measures insufficient?

Your rapporteur regards it as a fundamental failing that the Commission seeks in its proposal for a directive to achieve security of supply primarily by means of the holding and management of available reserves of natural gas. However, the perhaps more crucial long-term aspect of security of supply is extracting enough new resources and supplying them to the grid. To this end there is a need above all for adequate investment from the business side. The foremost aim of state – and international – action must lie in creating a favourable climate for this purpose, where appropriate also actively promoting investment in infrastructure, as is done for example in the context of the TEN programme. This is also the view of the IEA (“Natural gas supply report”, OECD/IEA 1995). The Commission’s ‘planned economy’ approach, on the other hand, will tend to frighten off investment. It will also limit the producers’ willingness to cooperate, since they may fear being tied to long-term contracts and compulsory transfers of gas in the event of a crisis.

Consequently security of supply must start with the gas companies’ own responsibility. The directive, however, starts from the odd assumption that in a competitive market the organisation of security of supply cannot be left to the industry. By placing the chief responsibility on state authorities, the Commission proposal weakens the preparedness of undertakings to take their own precautions. It should be the task of the state, and ultimately of the EU, to examine whether their precautions meet political requirements. It is also possible to consider whether firms can be compelled to take their own responsibility for precautions by announcing that, if their own precautions are inadequate, compulsory administrative measures will be taken. The draft directive, however, takes the opposite approach: Article 8(1) (b) and (c) and (3) involve serious interventions in existing contracts and in the right of access to pipelines. That undermines the undertakings’ own crisis precautions. It would be consistent with the rule of law to provide by law an emergency priority rule for cases in which private solutions could not deal with the problem. There are many instruments which can be used to guarantee security of supply, more in accordance with the market, which the Commission does not sufficiently consider or even disregards altogether.

a) Imposing an obligation to take precautionary measures so that supplies can be continued

even in a crisis;

b) Banning exemption-from-liability clauses in general supply conditions;

c) Allowing purchasers who only have a low level of need for security of supply – e.g. because they have two- or even three-way firing systems – to conclude contracts with a low security guarantee or even none at all, in order to permit lower pricing;

d) In the case of a prolonged interruption of supply the remaining possibilities are the market economy way, forcing down demand by increasing prices, or the interventionist way, of allocating capacities. Although there are limitations to the first possibility, since the demand for gas is very inelastic (substituting another power source is very expensive), it is nevertheless certain that an intervention in pricing exacerbates supply deficits (as we have seen in California). The proposed planned-economy measures beg the question to what extent the Commission proposes to limit free pricing, which would involve concealed risks for security of supply.

In a liberalised market, therefore, the participants in the market should bear the main responsibility, because security of supply always comes at a price. That it ignores this fact is perhaps the most glaring shortcoming of this proposed directive. While the explanatory memorandum mentions the considerable cost of the lack of security of supply, it makes no mention of the high cost of precautions. The necessary weighing up of overall economic costs must also take account of the actual level of risk of an interruption of supply. The one-sidedness of the Commission's view is shown up particularly sharply in the proposed crisis measures in Article 8: while the Commission is authorised to redistribute gas quantities in the event of a crisis, there is no mention of who has to bear the costs in such a case.

In principle, therefore, the rule must be that the gas supply companies must ensure security of supply as a service on their own responsibility and that gas customers can decide on the price they wish to pay for this. To that extent, security of supply in the open market is an element of competition. Nevertheless, it can be justifiable for two reasons for governments to set the level of security for the whole gas distribution system. First, in a complex network system, when supplies to one customer fail, third parties may also be affected (by external factors, in extreme cases a collapse of the network). Secondly, domestic customers have little opportunity to make use of such cost-benefit-analyses in practice, particularly since they have no alternatives when gas supplies are interrupted. The question remains whether such security levels need to be set EU-wide.

2.3 To what extent are Member States' measures inadequate?

There are considerable doubts whether the necessary state interventions can be more effectively carried out by the EU than by the Member States. In principle, the existing decentralised system has worked well. The Wood-Mackenzie study ordered by the Commission in 1998 found this, as did the Commission communication on security of gas supply in November 1999 and the conclusions of the Energy Council in May 2000.

As regards precautionary measures, all Member States already use a combination of various instruments, according to their very varying circumstances.

What *level* of security they are aiming to achieve by this, however, must also be left to the discretion of the Member States. This is a political decision, which, as we have seen, follows on from a cost-benefit analysis. The EU has neither a mandate to take such a decision on behalf of all Member States, nor are such common standards sensible. It is likely that the result of the assessment would be quite different in the different Member States.

The Member States are also responsible for crisis measures. This situation also reflects Article 24 of the current Gas Directive 98/30/EC of 1998, which permits the Member States to take protection measures with regard to the basically free energy market and to the rights of consumers and suppliers in the event of sudden market crises. The Commission's statement in its explanatory memorandum, that 'A clear need exists therefore to have such emergency measures defined and agreed in advance rather than Member States developing these if and when a sudden crisis arises' is not convincing. The Member States have in fact developed these crisis measures already. For example, Germany and Belgium have concluded agreements with the Netherlands on additional supplies in the event of a crisis. Even if one were to accept that the Commission could be allowed certain rights of intervention in very specific extreme and exceptional situations, the mechanism laid down in Article 8(3) would be inadequate as it is too cumbersome.

3. Appropriate measures at Community level

An EU directive guided by the above principles might make sense according to the following hierarchy.

I. Under Community law a framework is laid down for obligations of the gas supply undertakings, which the Member States must introduce on their own responsibility *in accordance with the different national circumstances regarding the presence of natural gas, extraction and sales structure*. Article 3(3) of the proposed directive might lay down the guidelines for this.

II. EU law could be used to guarantee that the Member States take measures in crisis situations where the measures taken by the companies would not be able to prevent a distortion of the internal market, or would not be able to do so in time or only with the use of disproportionate means.

III. Finally, the EU itself could give instructions to the Member States (Article 8(3) of the proposal for a directive). It needs to be made clear that this can only take place in serious and exceptional circumstances.

In the field of precautions, the Member States could be required to take appropriate measures for a crisis situation and possibly to define their own standard precautions. The catalogue of instruments available could also be defined. It would not be sensible to specify particular instruments, such as storage, since these are in competition with each other. If any mention is made of this, then diversification should be stressed as the main instrument. Most importantly, however, having common security standards set by the EU rather than by the Member States needs to be firmly rejected.

2 May 2003

OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS

for the Committee on Industry, External Trade, Research and Energy

on the proposal for a European Parliament and Council directive concerning measures to safeguard security of natural gas supply
(COM(2002) 488 – C5-0449/2002 – 2002/0220(COD))

Draftsman: Hans Blokland

PROCEDURE

The Committee on Economic and Monetary Affairs appointed Hans Blokland draftsman at its meeting of 27 November 2002.

It considered the draft opinion at its meetings of 27 January, 18 March and 20 May 2003.

At the last meeting it adopted the following amendment unanimously.

The following were present for the vote Christa Randzio-Plath (chairwoman), Philippe A.R. Herzog, John Purvis (vice-chairmen), Hans Blokland (draftsman), Generoso Andria, Manuel António dos Santos (for Hans Udo Bullmann), Harald Ettl (for Pervenche Berès), Jonathan Evans, Carles-Alfred Gasòliba i Böhm, Robert Goebbels, Lisbeth Grönfeldt Bergman, Mary Honeyball, Christopher Huhne, Othmar Karas, Christoph Werner Konrad, Werner Langen (for Ingo Friedrich), Ioannis Marinos, David W. Martin, Peter Michael Mombaur (for Renato Brunetta), Alexander Radwan, Mónica Ridruejo, Peter William Skinner, Helena Torres Marques, Theresa Villiers.

SHORT JUSTIFICATION

In the interests of a well-functioning internal market for gas, the Commission has put forward a proposal for safeguarding security of supply of gas. The proposal forms part of a package which includes a proposal concerning security of supply of petroleum products and proposals to repeal existing directives.

The aim of the new Commission proposal is to remove differences between the Member States with regard to security of supply requirements for natural gas. The Commission bases the proposal for a directive on Article 95 (internal market). Given that the substance of the directive concerns security of supply, there are strong grounds for taking Article 100 (crisis measures) as the legal basis for the proposal.

The proposal requires the Member States to take measures to address security of supply, including in extraordinary supply situations. The Member States are obliged under the proposal to take measures to define general policies for security of supply. However, it is unclear what measures and standards for security of supply are meant, the unclear impression being reinforced by the reiteration of similar wording in several articles.

A large number of articles state that the Member States must take measures in the context of the internal market. However, major differences exist between the Member States in terms of storage capacity. Some Member States also have natural reserves and are able to produce gas. The proposal takes no account of these differences. Natural gas forms part of the mineral resources of the Member States, over which the latter have sovereign rights. The proposal for a directive disregards these sovereign rights and fails to observe the subsidiarity principle which applies here.

It is not made clear what is the precise nature of the relationship to the directive concerning common rules for the internal market in natural gas which is currently at the common position stage (C5-0035/2003). It is very questionable whether this is the right time to be considering this proposal. To summarise, the Committee on Economic and Monetary Affairs has reached the following conclusions:

1. The Committee on Economic and Monetary Affairs calls on the Committee on Industry, External Trade, Research and Energy, as the committee responsible, to investigate the correct legal basis for the Commission proposal.
2. The Committee on Economic and Monetary Affairs asks the Committee on Industry, External Trade, Research and Energy to consider rejecting the proposal submitted pending the presentation of a proposal underpinned by a more solid basis *inter alia* in conjunction with the directive concerning common rules for the internal market in natural gas.

AMENDMENTS

The Committee on Economic and Monetary Affairs calls on the Committee on Industry, External Trade, Research and Energy, as the committee responsible, to incorporate the following amendments in its report:

Proposed text ¹

Amendments by Parliament

Amendment 1
Draft Legislative Resolution, paragraph 1

1. *Approves the Commission proposal as amended.*

1. *Rejects the Commission proposal.*

¹ OJ C331E, 31.12.2002, p. 249.

2 May 2003

OPINION OF THE COMMITTEE ON THE ENVIRONMENT, PUBLIC HEALTH AND CONSUMER POLICY

for the Committee on Industry, External Trade, Research and Energy

on the proposal for a European Parliament and Council directive concerning measures to safeguard security of natural gas supply
(COM(2002) 488 – C5-0449/2002 – 2002/0220(COD))

Draftsman: Hans Kronberger

PROCEDURE

The Committee on the Environment, Public Health and Consumer Policy appointed Hans Kronberger draftsman at its meeting of 27 November 2002.

It considered the draft opinion at its meetings of 24 March 2003 and 30 April 2003.

At the latter meeting it adopted the following amendments by 37 votes to 1.

The following were present for the vote: Caroline F. Jackson, chairman; Hans Kronberger, draftsman; María del Pilar Ayuso González, Hans Blokland, David Robert Bowe, John Bowis, Martin Callanan, Dorette Corbey, Chris Davies, Véronique De Keyser, Marialiese Flemming, Karl-Heinz Florenz, Cristina García-Orcoyen Tormo, Laura González Álvarez, Robert Goodwill, Françoise Grossetête, Jutta D. Haug, Christa Klaß, Bernd Lange, Paul A.A.J.G. Lannoye, Peter Liese, Torben Lund, Minerva Melpomeni Malliori, Patricia McKenna, Jorge Moreira da Silva, Emilia Franziska Müller, Riitta Myller, Mauro Nobilia, Ria G.H.C. Oomen-Ruijten, Marit Paulsen, Dagmar Roth-Behrendt, Guido Sacconi, Inger Schörling, Renate Sommer, María Sornosa Martínez, Bart Staes, Antonios Trakatellis and Kathleen Van Brempt.

SHORT JUSTIFICATION

Following the liberalisation of the internal energy market, concrete measures are called for in order to avoid an energy crisis such as the one that occurred in California and to safeguard the security of energy supply in the European Union. This proposal for a directive refers to the amended version of the directive on the internal market in natural gas (98/30/EC), which provides for public-benefit obligations to provide a secure supply of natural gas. The fact that the Commission is dealing with the issue of a secure natural gas supply is to be welcomed.

The Commission emphasises in its proposal the fact that in order to meet the growing demand for natural gas and to diversify its gas supply, the European Union must mobilise considerable additional quantities of natural gas in the coming decades. Experts predict that in the years to 2010 demand for natural gas will rise by 3% per annum (World Energy Vol. 5, No 3 2002, 'The Future of the Oil and Gas Industry: Past Approaches, New Challenges', by Harry J. Longwell). One significant reason why demand for natural gas is increasing is the fact that the oil extraction rate has been falling worldwide since 2000 and the North Sea oil supply will dry up in the foreseeable future (by 2010 oil production in Great Britain and Norway will have fallen to about 50% under the maximum extraction rate, and by 2020 will have been reduced to a maximum of 20% of the 2000 extraction rate).

However, the expectation that natural gas could meet the generally rising demand for energy and compensate for the drop in oil resources in the long term is highly dubious. Natural gas, like oil, is a finite, unsustainable resource, and most natural gas reserves were discovered between 1960 and 1980. It must also be borne in mind that the price of natural gas is linked to that of crude oil and is dependent on production technology. According to experts, alongside regional distribution problems and incomplete liberalisation, one of the main reasons for the Californian energy crisis was the increasing difficulty of gas production.

The Commission assumes that in the period 2020-2030 only half of the supply will be produced from natural gas. With this dramatic rise in demand the European Union's dependence on natural gas imports from third countries will grow, increasing the risk of an insecure supply situation. A one-sided reliance on natural gas as a source of energy is to be rejected since it does not give security of supply. According to the Commission, the EU's dependence on natural gas imports will have reached 75% by 2020.

In order to reduce dependence and the danger of a serious supply problem, it is therefore necessary to take measures leading to efficient handling of natural gas resources and more vigorous development of renewable energy resources. Lasting, sustainable energy security can only be achieved through a significant increase in the proportion of renewable energy sources, with full supply as the ultimate goal. In particular, as already provided for in the reworked directive on the internal market in natural gas, the Commission should work further on the possibility of biogas through feed-in to the natural gas network. There have been significant technical advances in the technology for producing biogas in recent years. Biogas is a renewable, decentralised energy source which not only protects the environment, but also reduces the level of dependence on natural gas imports. Biogas can be produced locally from biogenic materials, cutting out the need for transportation over long distances. The use of biogas will contribute to achieving climate protection targets, create jobs in the European Union and revive local economies. The proposal for a directive should serve primarily to guarantee a safe supply of natural gas and provide for measures to promote efficient energy use and the use of renewable energy sources which are available in stable and reliable quantities.

AMENDMENTS

The Committee on the Environment, Public Health and Consumer Policy calls on the Committee on Industry, External Trade, Research and Energy, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission ¹	Amendments by Parliament
Amendment 1 Recital 4	
(4) Gas is becoming an increasingly important component in EU energy supply. In function of the increased importance of gas, ensuring the proper functioning of the single EU natural gas market by safeguarding security of gas supply also becomes of higher strategic importance;	(4) Gas is becoming an increasingly important component in EU energy supply. In function of the increased importance of gas, ensuring the proper functioning of the single EU natural gas market by safeguarding security of gas supply also becomes of higher strategic importance. <i>It must, however, be borne in mind that because of rising demand and the decline in availability in Europe, natural gas cannot provide a sufficient and secure supply for the EU. As well as energy efficiency measures, therefore, emphasis must be laid on developing decentralised renewable energy sources.</i>

¹ OJ C 331, 31.12.2002, p. 262.

Justification

Because of declining oil and natural gas supplies in the European Union (according to experts, gas output in Great Britain had already exceeded the output maximum by 2002, and gas output from Groningen, the largest gas field in the EU, could come to an end by 2010, cf. Ludwig-Bölkow-Systemtechnik GmbH, Ottobrunn, Germany; www.energiekrise.de) and rising demand (in 2001 natural gas consumption in Western Europe rose by 2.5%, according to the Commission proposal, p. 47), even natural gas cannot guarantee a sustainably secure energy supply; the energy mix must therefore be diversified in the direction of renewable energy sources.

Amendment 2

Recital 6

(6) As indicated by the Green Paper "Towards a European strategy for the security of energy supply", the European Union ***is expected*** in the longer term ***to*** become increasingly dependent on gas imported from non-EU sources of supply;

(6) As indicated by the Green Paper "Towards a European strategy for the security of energy supply", the European Union ***will*** in the longer term become increasingly dependent on gas imported from non-EU sources of supply. ***The European Union's dependence on natural gas imports could, according to the Commission, reach a level of 75% by 2020. With a further rise in dependency on natural gas imports, the risk of an insecure natural gas supply also rises. A comprehensive strategy to provide an independent and sustainable energy supply on the basis of renewable energy sources should therefore be developed.***

Justification

High dependency on natural gas imports represents a high factor of uncertainty as regards a secure natural gas supply. Diversification of the energy mix through the use of renewable energy sources increases the security of the energy supply.

Amendment 3

Recital 6 a (new)

(6a) As is indicated in the Commission communication on alternative fuels for road transportation, natural gas is one of the three medium-term options for the replacement of petroleum-based automotive fuels;

Justification

The above communication (COM(2001) 547) makes provision for 10% of all petroleum-based fuels being replaced by natural gas by 2020. Natural gas can also be used for the production of hydrogen. As the Commission states in the communication, 'natural gas has great potential (...) as a motor fuel. It is a cheap alternative fuel, has a high octane number, is clean and has no problem in meeting existing and future emission standards'.

Amendment 4

Recital 8

(8) The European Union has a strong common interest with gas supplying and transit countries in ensuring continued investments in gas supply infrastructure;

(8) The European Union has a strong common interest with gas supplying and transit countries in ensuring continued investments in gas supply infrastructure. ***At the same time, the problem of dependence on natural gas imports must not be neglected. Dependency carries risks arising from political instability in the producer countries, endangering the security of the gas supply.***

Justification

The fact that natural gas is mainly transported via fixed pipeline systems, which are hard to protect, increases the risk in that not only the stability of the producer countries but also that of the countries of transit must be guaranteed.

Amendment 5

Recital 12

(12) Domestic gas resources and measures designed to extend their availability, in a non-discriminatory manner that is compatible with the requirements of a competitive single market for natural gas and competition rules, contribute to enhancing the level of security of supply in the internal gas market.

(12) Domestic gas resources and measures, ***such as feed-in of biogas***, designed to extend their availability, in a non-discriminatory manner that is compatible with the requirements of a competitive single market for natural gas and competition rules, contribute to enhancing the level of security of supply in the internal gas market.

Justification

Biogas is a decentralised renewable energy source, which is available in sufficient quantities, protects the environment and reduces dependence on natural gas imports.

Amendment 6
Recital 16

(16) In the event of extraordinary gas supply situations, the Commission shall take appropriate action proportionate to the severity of the supply situation to ensure that the necessary measures to provide specific assistance to those Member States particularly effected by the gas supply disruption are implemented in order to safeguard, as far as possible, ***the continued functioning of the internal market for gas***;

(16) In the event of extraordinary gas supply situations, the Commission shall take appropriate action proportionate to the severity of the supply situation to ensure that the necessary measures to provide specific assistance to those Member States particularly effected by the gas supply disruption are implemented in order to safeguard, as far as possible, ***serious gas supply problems can be eliminated***;

Justification

Security of the gas supply must be the main consideration.

Amendment 7
Article 1

This Directive establishes measures aimed at ***ensuring the proper functioning of the EU internal market for gas by*** safeguarding security of gas supply. It establishes a common framework within which Member States shall define general, transparent and non-discriminatory security of supply policies compatible with the requirements of a competitive single EU market for gas; clarify the general roles and responsibilities of the different market actors and implement specific non-discriminatory procedures to safeguard security of gas supply.

This Directive establishes measures aimed at ***(deletion)*** safeguarding security of gas supply. It establishes a common framework within which Member States shall define general, transparent and non-discriminatory security of supply policies compatible with the requirements of a competitive single EU market for gas; clarify the general roles and responsibilities of the different market actors and implement specific non-discriminatory procedures to safeguard security of gas supply.

Justification

Security of the gas supply must be the main consideration.

Amendment 8
Article 3(1)

1. Member States shall take the necessary measures to define the general policies for security of supply ***which are necessary and integral part of competitive internal natural gas market***. This may include clarifying the general roles and responsibilities of the different market actors in fulfilling the security of supply standards.

1. Member States shall take the necessary measures to define the general policies for security of supply ***(deletion)***. This may include clarifying the general roles and responsibilities of the different market actors in fulfilling the security of supply standards. ***Provided the requirements of this directive are met, the exact content of supply security policy and the way in which this policy is determined shall be treated in accordance with the subsidiarity principle.***

Justification

Security of the gas supply must be the main consideration. The possibility for individual Member States to develop supply strategies over and above the requirements of the directive could have the effect of acting as an example to other Member States, who could use the experience gained in the process.

Amendment 9
Article 3(3)(c)

c) the need to diversify supplies and ensure a reasonable balance between different gas supply sources;

c) the need to diversify supplies, ***particularly by feed-in of biogas***, and ensure a reasonable balance between different gas supply sources;

Justification

Biogas is a decentralised renewable energy source, which is available in sufficient quantities, protects the environment and reduces dependence on natural gas imports.

Amendment 10

Article 3(3)(d)

d) the need to create incentives for new gas supplies from internal and external sources to the single European gas market; Deleted

Justification

Incentives to conclude forced contracts for new gas supplies would be the wrong way to go about minimising the risk to supply.

Amendment 11
Article 3(3)(da)(new)

da) the need to create incentives for the use of biogas as a sustainable, decentralised energy source in the European internal gas market,

Justification

Biogas is a decentralised renewable energy source, which is available in sufficient quantities, protects the environment and reduces dependence on natural gas imports. Biogas can be produced locally from biogenic materials, obviating the need for transportation over long distances. In addition, biogas contributes to the achievement of climate protection objectives. Special incentives for using biogas should therefore be created.

Amendment 12

Article 4, paragraph 4(c)

c) ***supply*** flexibility

c) flexibility ***and geographical diversification of supply***

Or. es

Justification

As is stated in the Green Paper on security of energy supply, geographical diversification is one of the most obvious means of ensuring the security of energy supply.

Amendment 13
Article 4(4)(da)(new)

da) diversification of gas supply sources through the use of biogas,

Justification

Biogas is a decentralised renewable energy source, which is locally available on a stable basis and makes a contribution to sustainable security of energy supply.

Amendment 14
Article 5(2)(aa)(new)

aa) an analysis of the development of global natural gas supplies,

Justification

In order to evaluate the future natural gas supply situation it is important to know how natural gas supplies are developing globally. Renewable energy sources are environmentally friendly and decentralised, and for this reason, because of the increasing level of dependency on natural gas imports, energy efficiency measures and a shift to renewable energy sources are necessary.

Amendment 15
Article 5(2)(ab)(new)

ab) topics relating to energy efficiency measures and the possibility of replacing natural gas with renewable energy sources.

Justification

In order to evaluate the future natural gas supply situation it is important to know how natural gas supplies are developing globally. Renewable energy sources are environmentally friendly and decentralised, and for this reason, because of the increasing level of dependency on natural gas imports, energy efficiency measures and a shift to renewable energy sources are necessary.

Amendment 16
Article 6(1)

1. With a view to ensure continued long-term security of gas supply for the Community and the gradual development of a more liquid internal market for gas, the Commission shall closely monitor the degree of new gas supply import contracts from non-EU countries concluded on a long-term basis as well as the existence of adequate liquid gas supplies and transparent gas price references within the Community to underpin stable long-term gas supplies. The Commission may issue Recommendations on appropriate measures to be taken by Member States in this respect. The Recommendations may only address an insufficient degree of such contracts on a Community level. Member States shall inform the Commission of the manner in which the Recommendations are implemented. In making such Recommendations, the Commission shall pay particular attention to the possible effect such measures may have on companies with small market shares and new entrants.

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Justification

Security of the gas supply must be the main consideration.

Amendment 17 Article 6(2)

2. Where the measures taken by Member States in relation to the Recommendations referred to in paragraph 1 are inadequate with regard to the long-term security of gas supply, the Commission may, by Decision, in conformity with the procedure laid down in article 9, paragraph 3 require the Member States concerned to take specified measures to

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ensure that an appropriate minimum share of new gas supply from non-EU countries over the five years following the entry into force of this Directive is based on long-term contracts and that adequate liquid gas supplies are developing and transparent gas price references are available within the Community to underpin stable long-term gas supplies. When taking such Decisions, the Commission shall pay particular attention to the possible effect such measures may have on companies with small market shares and new entrants.

Justification

Is covered adequately by Article 6(1) and is not in line with the subsidiarity principle.

Amendment 18
Article 10(3)(aa)(new)

aa) monitoring and analysis of the development of global natural gas supplies.

Justification

In order to evaluate the future natural gas supply situation it is important to monitor and analyse the global development of natural gas supplies.